

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BYRON DEAN WALLER,

Plaintiff,

v.

No. 12-cv-1234 SMV/ACT

**MICHAEL JAMES WALLER and
PAULA WALLER,**

Defendants.

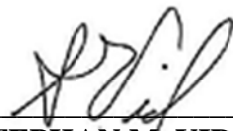
ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS

THIS MATTER is on Plaintiff's [Motion to Dismiss] [Doc. 25], filed April 8, 2013. No response has been filed, nor is one needed. By his Motion, Plaintiff seeks to "voluntary[ily] withdraw" his lawsuit, which the Court construes as a voluntary dismissal pursuant to Fed. R. Civ. P. (a)(2).¹ The Court, being fully advised in the premises, FINDS that the Motion is well-taken and should be granted.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff's [Motion to Dismiss] [Doc. 25] is **GRANTED**. The case is therefore **DISMISSED without prejudice**.

IT IS FURTHER ORDERED that both Plaintiff's Application for Appointment of Counsel [Doc. 16] and Defendants' Motion for Complete Summary Judgment [Doc. 18] are **DENIED as moot**.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge
Presiding by Consent

¹ Fed. R. Civ. P. 41(a)(2) states in pertinent part: "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper."